

**UNITED STATES COURT OF APPEALS  
FOR THE NINTH CIRCUIT**

**Form 12. Application for Leave to File Second or Successive  
Petition under 28 U.S.C. § 2254 or Motion under 28 U.S.C. § 2255**

*Instructions for this form: <http://www.ca9.uscourts.gov/forms/form12instructions.pdf>*

9th Cir. Case Number (*to be provided by court*) 22-55799

Applicant Name Keith Gartenlaub

Prisoner Registration Number \_\_\_\_\_

Address 9 Maverick

Irvine, CA 92602

Name of Respondent (Warden) \_\_\_\_\_

**You MUST answer the following questions:**

(1) What conviction(s) are you challenging?

Count 2: possession of child pornography in violation of:

18 U.S.C. 2252(a)(5)(B)

18 U.S.C. 2252(a)(B)(2)

(2) In what court(s) were you convicted of these crime(s)?

Federal Court for the Central District of California

(3) What was the date of each of your conviction(s) and what is the length of each sentence?

12/10/2015

Imprisonment for 41 months. Lifetime probation.

*Feedback or questions about this form? Email us at [forms@ca9.uscourts.gov](mailto:forms@ca9.uscourts.gov)*

**For questions (4) through (10), provide information separately for each of your previous §§ 2254 or 2255 proceedings. Use additional pages if necessary.**

(4) Has the judgment of your conviction or sentence been modified or amended? If yes, when and by what court?

No

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(5) With respect to **each** conviction and sentence, have you ever filed a petition or motion for habeas corpus relief in federal court under **28 U.S.C. § 2254** or **§ 2255**?

Yes ☒ No ☐

(a) In which federal district court did you file a petition or motion?

Federal Court for the Central District of California

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(b) What was the docket number?

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(c) On what date did you file the petition/motion?

4/22/2020

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(6) What grounds were raised in your previous habeas proceeding?  
(list all grounds and issues previously raised in that petition/ motion)

New evidence related to FISA

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(7) Did the district court hold an evidentiary hearing? Yes ☐ No ☒

(8) How did the district court rule on your petition/motion?

☐ District court **dismissed** petition/motion. If yes, on what grounds?

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☒ District court **denied** petition/motion.

☐ District court **granted** relief. If yes, on what claims and what was the relief?

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(9) On what date did the district court decide your petition/motion?

8/24/2022

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(10) Did you file an appeal from that disposition? Yes ☒ No ☐

(a) What was the docket number of your appeal?

22-55799

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(b) How did the court of appeals decide your appeal?

In process. No decision.

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(11) State concisely each and every ground or issue you wish to raise in your current petition or motion for habeas relief. Summarize briefly the facts supporting each ground or issue.

Please see attached 2255 form stating 4 grounds.

~~Ground 5 - The Foreign Intelligence Court is operating unconstitutionally, they did not have the~~  
authority to grant the search warrant, anything derived from the search warrant should be thrown out.  
The constitution never provisioned for a second, ex-parte court system that operates in secrecy.  
~~Its violates and complicates the due process of law and negates some defendant protections.~~  
The FBI took advantage of this fact to manipulate the system and get a search warrant for an innocent  
american citizen that should never have been granted. I am not nor have I ever been an agent of a  
foreign power. ~~Because its secretive, false acusation and information can manipulate the court as it~~  
happened in this case. I outlined this fact in my first letter to the Inspector General (attached)

(12) For each ground raised, was it raised in the state courts? If so, what did the state courts rule and when? (*Attach a copy of all relevant state court decisions, if available*)

No, This is a Federal Case.

(13) For each ground/issue raised, was this claim raised in any prior federal petition/motion? (*list each ground separately*)

Grounds 1-4, No. None of the grounds have been previously raised in a federal petition. Ground 5 I believe it has been raised in a federal petition.

(14) For each ground/issue raised, does this claim rely on a new rule of constitutional law? (*list each ground separately and give case name and citation for each new rule of law*)

No. But there needs to be a constitutional law eliminating FISA and the FISC.

(15) For each ground/issue raised, does this claim rely on newly discovered evidence? What is the evidence and when did you discover it? Why has this newly discovered evidence not been previously available to you? (*list each ground separately*)

Some of the evidence was not obtained until I got my case record information from previous lawyer, Mark Werrksman, in late 2020 and looked thru it. Evidence included emails and other documents.

(16) For each ground/issue raised, does the newly discovered evidence establish your innocence? How?

The newly discovered evidence are additional facts needed to show ineffective assistance and that I did not get a fair trial. Taking all 5 grounds presented here as a whole while considering the FISA issues with this case I feel it does establish my innocence and questions this whole case.

(17) For each ground/issue raised, does the newly discovered evidence establish a federal constitutional error? Which provision of the Constitution was violated and how?

Yes

Grounds 1-5:

Fourth amendment, liberties from unreasonable search and seizures

Fifth amendment, Due process clause

Sixth amendment, Right to counsel

(18) Provide any other basis for your application not previously stated.

Signature Keith Gartenlaub Date 08/18/2024

**In capital cases only, proof of service on respondent MUST be attached. A sample proof of service is attached to this form.**

**Attach proposed section 2254 petition or section 2255 motion to this application.**

*Mail this form to the court at:*

Clerk, U.S. Court of Appeals for the Ninth Circuit, P.O. Box 193939, San Francisco, CA 94119-3939

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**CERTIFICATE OF SERVICE**

**Applications for Leave to File Second or Successive 28 U.S.C. §§ 2254/2255  
Petitions/Motions**

**DEATH PENALTY CASES ONLY**

Case Name \_\_\_\_\_ v. \_\_\_\_\_

I certify that a copy of the application for leave to file a second or successive 28 U.S.C. § 2254 petition or § 2255 motion with any attachments was served, either in person or by mail, on the person listed below.

Signature \_\_\_\_\_  
(Notary *NOT* required)

Date of Service \_\_\_\_\_

Name	Address
_____	_____